

REMARKS

This Amendment is submitted in response to the Office Action mailed on April 30, 2004. Pursuant to this Amendment, Claims 48 and 76 have been amended and newly-submitted Claims 102-111 added. This Amendment does not add new matter. For the reasons set forth below, as well as the reasons discussed in great detail during the interview with the Examiner, Applicants respectfully submit that the rejection of the claims are improper.

At the outset, Applicants wish to thank the Examiner for the extended, approximately one hour, telephone interview. During that interview, Applicants' undersigned attorney, as well as Mr. Jack Nimz, discussed in detail the pending rejections and why Applicants believe the references fail to disclose or suggest the claimed invention. Further, Applicants set forth in detail why the suggested combination of references was not proper and was, with due respect, a hindsight reconstruction of the claimed invention. For the sake of brevity, Applicants will not repeat in detail the arguments as well as facts tendered during the interview. Instead, Applicants will generally point out some of the differences between the claimed invention and the cited references as well as some of the reasons why the combination of the references is not proper.

With respect to independent Claim 44, this claim requires an automated checkout. Neither of the two principle references, *Perin* or *Bustos* disclose or suggest such a device. Indeed, these references teach away from an automated checkout. Though the Examiner has relied on *Dejaeger* or *Walker* as disclosing an automated checkout, Applicants respectfully submit there is no motivation to combine the principle references with either of these references. For example, with respect to *Perin*, this reference specifically requires an operator. Accordingly, why would one modify *Perin* to be an automated checkout counter when the disclosure requires an operator. Regardless, even if so combined, the references still fail to disclose or suggest the claimed invention. Claim 44, for example, also requires allowing the consumer to select a product from a dispensing device located in juxtaposition to the automated checkout. *Bustos* teaches away from this concept in that it requires remote storage. Claim 44 also requires the step of automatically adding a cost to the product to the cost associated with the scanned items. The Patent Office refers in the Office Action to column 4, line 42 of *Perin* as disclosing this element. However, in contrast to the claimed element, this portion of the reference states "if a customer desires to purchase game tickets, the customer pays the clerk with cash or credit card. The amount of the ticket as purchased is entered by the clerk into the retail terminal..." See column

4, lines 42-45, emphasis added. Thus, contrary to the Examiner's statement, *Perin* teaches away from this element. For at least the above reasons, the rejection of Claim 44 and the claims that depend therefrom is improper.

Independent Claim 48 also requires the automatically adding a cost of the dispensed product to the cost of the scanned product. This feature, once again, is taught away from one of the principle references *Perin*. In addition, this claim has been amended to recite the element of storing the dispensed product at the point of purchase which is taught away from by *Bustos*. Thus, Claim 48 is allowable over the cited references for at least these reasons.

With respect to independent Claim 49, this claim requires, in addition to the automatically adding the cost of the product, prompting the consumer to purchase a product from the dispensing device. Not one of the cited references discloses or suggests this feature. With respect to *Walter*, it should be noted that to the extent it prompts the consumer to purchase any product, that product is not located at the point of purchase. Indeed, *Walter* discloses the problem Applicants' claimed invention attempts to overcome, the fact that point of purchase products are not provided at automated checkout counters. For at least these reasons, Claim 49 is allowable.

With respect to independent Claim 50, this claim requires providing a product at the point of purchase and prompting the consumer that other products are available at the point of purchase. These elements are neither disclosed nor suggested by any of the cited references. Furthermore, this claim requires, automatically, without need for a cashier, adding the cost associated with other items purchased with any additional cost for the product. For at least these reasons, Claim 50 is allowable.

The claims that depend from Claim 50 are allowable for at least the same reasons as Claim 50 set forth above. In addition, they provide additional elements that are not disclosed or suggested in combination with the elements of Claim 50.

Independent Claim 56 requires stocking a plurality of different products at the point of purchase. This feature is neither disclosed nor suggested by any of the cited references. Further, for example, the claim automatically prompting the consumer that the products are available at the point of purchase. This feature once again is neither disclosed nor suggested by any of the cited references. Moreover, this claim requires the automatically adding to the cost of the

product the cost of any other items that are being purchased. For at least these reasons, Claim 56 is allowable over the cited references.

The claims that depend from Claim 56 are also allowable for at least substantially the same reasons as Claim 56 from which they depend. Further, these claims add limitations that are not disclosed or suggested in combination with the elements of Claim 56.

Independent Claim 60 requires the steps of stocking consumable and non-consumable products in the single device. Allowing consumer to purchase consumable product from the single device without the need for a cashier. Allowing the consumer to purchase a non-consumable product from the same device. And dispensing the consumable and non-consumable product to the consumer at the same location. Not one of these claimed elements is either disclosed or suggested by the cited references. Indeed, the Office Action does not even mention the words consumable or non-consumable, completely ignoring these limitations. Thus, Claim 60 is clearly allowable over the cited references. Claim 61 that depends from Claim 60 is allowable for at least the same reasons as Claim 60 from which it depends.

Independent Claim 65 requires, in part, prompting a consumer to purchase a point of purchase product. Not one of the cited references discloses or suggests this feature. Thus, for at least this reason, Claim 65 is allowable over the cited reference.

Claim 76 has been amended to provide the limitation of storing point of purchase products at the point of purchase location. In addition, this claim now requires the step of automatically adding the point of purchase cost to the other cost. For at least these reasons, this claim is not taught nor suggested by the cited references.

Accordingly, Applicants respectfully submit that the above-identified patent application contains allowable subject matter. Therefore, Applicants respectfully request reconsideration of their patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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